

**Commonwealth of Massachusetts  
Department of Telecommunications and Energy**

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**Investigation into the  
Provision of Default Service**

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**D.T.E. 02-40**

**Reply Comments of the  
Massachusetts Technology Collaborative**

**I. Introduction**

These Reply Comments are submitted by the Massachusetts Technology Collaborative ("MTC"), in response to the Department of Telecommunications and Energy's ("Department", or "DTE") June 21, 2002 request for comments with respect to its Investigation into the Provision of Default Service.

The great bulk of the initial comments submitted by the parties addressed reforms that would not take effect until the end of the Standard Offer period in 2005. While the parties and the Department should be commended for looking so far ahead, the Department should not restrict itself to reforms that can only be implemented in the distant future. There is much that can be done today that would both create benefits now, and enhance the development of the competitive market over the next two years, thereby reducing the problem that the Department will face in 2005.

The reforms that should be implemented now include:

- a) Removing uncertainty and enhancing flexibility regarding utility compliance with the Renewable Portfolio Standard; and
- b) Creating green options for standard offer and default service customers.

## **II. RPS Compliance for Default Service**

### **A. Distribution companies should be authorized to incur the appropriate costs that are necessary to comply with the RPS in a manner designed to advance the goal of stimulating the development of new renewable energy generation capacity.**

Massachusetts has now implemented a comprehensive and innovative Renewable Portfolio Standard ("RPS") with the potential to achieve important goals of the Restructuring Act. By directing the DOER to establish the RPS, the legislature made clear its intent to stimulate the development of new renewable energy generation capacity to serve Massachusetts consumers.

As required by M.G.L. c. 25A, §11F and 225 CMR 14.00, the responsibility for RPS compliance rests with the "retail supplier." As long as any distribution company is the "retail supplier" of default service (or standard offer), the Department should authorize and direct it to comply with the RPS in a manner that supports the development of new renewable generating facilities.

As the entity that has been charged with collecting and spending the Alternative Compliance Payment ("ACP") revenues, the MTC would like to point out that payment of the ACP should be a last resort. The ACP was established in the RPS regulations to cap the compliance costs and to address the potential

shortages of RPS-compliant power supplies.<sup>1</sup> With regard to the goal of stimulating the development of new renewable generation, the purchase of RPS-compliant power or certificates by retail suppliers is by far the best approach. Because of timing and other issues, expenditure of ACP funds should be only a fallback.

**B. Distribution companies should be assured of recovery of appropriate compliance costs in the price charged to Default Service customers.**

The RPS regulations and the GIS system, which supports trading of attributes that can be used for RPS compliance (“RPS certificates”), have been implemented only recently. Some requirements do not become fully effective until January of 2003. As a result, some market participants may still be uncertain of the ways in which this requirement will impact utilities and their suppliers. While the RPS regulatory responsibility rests with DOER, it would reduce the potential for regulatory uncertainty if the Department would take formal notice of these regulations and affirm the compliance obligations of companies under the jurisdiction of the Department’s own regulations. Specifically, the Department should provide distribution companies that supply default service (or standard offer) as much regulatory assurance regarding the recovery of RPS compliance costs in default service (or standard offer) rates as it provides regarding the recovery of power supply costs in those rates.

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<sup>1</sup> See Division of Energy Resources, Background Document on the Proposed Regulation for the Renewable Energy Portfolio Standard 225 CMR 14.00 at 6 – 7 (October 3, 2001) (the ACP was established because of “concerns about market power abuse in secondary market trading of renewable attributes”).

**C. Distribution Companies should be given sufficient flexibility in their procurement systems to efficiently and effectively achieve RPS compliance.**

Recognizing that the market for certificates is different from the market for power supply, the Department should not subject utility procurements of RPS certificates to the same restrictions as utility procurements of default service power supply.

For example, while restricting power supply procurements to periods of 6 months (as at present) or a somewhat longer period (as proposed by some parties) may be appropriate in light of the characteristics of the power market, no such restriction is appropriate for procurements of RPS certificates.

Developers of new renewable generation need longer term contracts in order to obtain financing. If utility procurements are limited to 6 to 12 months or even 2 years, there is a risk that new renewable generation capacity will not be built.

**III. The Department should use Standard Offer and Default Service to Create a Market for Green Products Now and thereby Jump-Start the Competitive Retail Market as a Whole.**

The Department should move aggressively to create green options for small standard offer<sup>2</sup> and default service customers for the remainder of the standard offer period. Doing so will give small customers valuable choices today,

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<sup>2</sup> While this proceeding is focused on default service rather than standard offer, it would be appropriate for the Department to implement this standard offer reform here. First, in its Order Opening Investigation, the Department stated that it would use this proceeding to “continue the investigation begun in D.T.E. 01-54 into the appropriate role of distribution companies in moving their customers towards competitive supply.” Order Opening Investigation at 6. As described below, one of the goals of a green standard offer option is to move customers towards competitive supply. Moreover, insofar as the proposal realizes that goal, it helps to address the specific issue the Department is attempting to address through default service reform: “ensur[ing] that the benefits of a competitive market are available to all Massachusetts customers at the end of the standard offer service transition period.” Order Opening Investigation at 1.

rather than forcing them to wait until 2005 when other reforms may be implemented. Moreover, creating green options as adjuncts to standard offer and default service, if done in a way that maximizes the role of competitive retail suppliers, will help to develop a viable retail market for mass-market customers. By creating opportunities for suppliers to switch to the competitive market, this will reduce the size of the problem that the Department faces at the end of the standard offer period.

**A. Offering green options as adjuncts to standard offer and default service will jump-start the development of the overall competitive retail market.**

Offering green products as adjuncts to standard offer and default service, if done in a way that maximizes the role of competitive suppliers, will jump start the retail market by overcoming several of the barriers that have prevented the development of that market.

**Products of Value**

One of the greatest challenges in creating a competitive retail market for small customers is developing products that customers value. While some suppliers have tried a discount approach, that has proven very difficult for a number of reasons. First, given the wholesale pricing of default service and standard offer, it is very difficult for competitive suppliers to offer a discount off the utility price. Second, given the size of electric bills, even if it were possible to

offer a discount of 10% or so, the discount would result in insignificant dollar savings for the majority of small customers.<sup>3</sup>

By contrast, experience in other states has demonstrated that customers see value in green products. For example, in Pennsylvania over 20% of the first 450,000 residential customers to switch chose green products.<sup>4</sup> Consumer research here in Massachusetts reached a similar conclusion. A statewide public opinion research survey conducted by MTC in February 2002 found that there is overwhelming support (90%) for increasing the use of renewable energy and more than half of all Massachusetts consumers are willing to pay extra for renewable energy.<sup>5</sup> Accordingly, green products will create a valuable choice for small customers, something discounts cannot do today.

### **Supplier Scale**

An additional challenge to competitive market development is enabling retail suppliers to achieve scale in a market, and thus the ability to operate efficiently. One-by-one customer marketing has proven to be a very long path to efficient scale. Many major mass-market retailers are now avoiding the one-by-one approach, and are focusing instead on opportunities to begin serving large numbers of customers at once.

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<sup>3</sup> For example, NSTAR reports that 400,000 of its residential customers have an energy bill of less than \$18 per month. Horan, Douglas, *Restructuring Phase II: The Development of Customer Oriented Competitive Markets*, presentation to Massachusetts Electric Restructuring Roundtable (June 21, 2002).

<sup>4</sup> Ryan Wiser, et al., *Green Power Marketing in Retail Competition: An Early Assessment*, NREL/TP.620.25939, at 8 (February 1999).

<sup>5</sup> Massachusetts Technology Collaborative, *Opinion Research Survey: Executive Summary*, [www.masstech.org/massrenew/green\\_power/cons\\_agg/summary.htm](http://www.masstech.org/massrenew/green_power/cons_agg/summary.htm) (March 13, 2002).

A green product, offered by a partnership of a utility and a competitive retailer, creates an opportunity for a competitive retailer to pick up a large number of customers quickly, and thus achieve scale. From this position, the retailer can then market to other customers.

### **Making Choices and Leaving Utility Service**

Further challenges to retail market development include getting customers accustomed to electricity choices, and persuading them to leave the familiarity of utility generation service. A green product, offered as an adjunct to utility standard offer service, can overcome this barrier by letting customers make a choice without leaving the safety of the utility. Repeated marketing of the product by the utility will make customers (even those who do not choose) more accustomed to the notion of electric choice.

#### **B. A proposal for offering green products as adjuncts to standard offer and default service**

The MTC offers the following proposal for offering green products as adjuncts to standard offer and default service.<sup>6</sup> The proposal is divided into three sections: 1) standard offer; 2) default service during the standard offer period; and 3) default service after the standard offer.

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<sup>6</sup> In New York, Niagara Mohawk recently launched a renewable energy program for its generation service customers. While our proposal may differ in a few important respects, the Niagara Mohawk program shows that other northeast states are attempting to stimulate the market by making green offers available through the utility. Information regarding the Niagara Mohawk program is available at <http://www.niagaramohawk.com/enrgchoice/programs/renew-res.html>.

## **Standard Offer**

The key elements of the offering for Standard Offer customers are listed below.

- Small standard offer customers will be offered one or more green options through the utility.
  - The green offer will be available only for the remainder of the standard offer period.
  - Customers that choose the green option will not be switched from utility service.
  - Customers that choose the green option will be free to switch back to the regular standard offer terms or to a competitive supplier at any time.
  - The incremental cost of the green option will be added to the standard offer price, and those two items will be presented to the customer as a single line item on the bill.
- The green option will be offered in partnership with competitive retail suppliers.
  - Retail suppliers will provide the power and/or GIS certificates to the utility.
  - The retail supplier's brand will be listed on the bill and on all marketing.
  - The retail supplier may assist in marketing the green offers.
- The utility will establish minimum criteria for the green option, with Department approval. All interested suppliers that meet the minimum criteria will be eligible to participate in the program. Each supplier would offer a separate offering.
- The utility will market the green option to customers through bill inserts and its web site.<sup>7</sup>
- Customers will be able to select the green option by:
  - Returning an election card to the utility.

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<sup>7</sup> This marketing, while targeted to eligible customers, would be likely to benefit all green suppliers, aggregators or other green power initiatives by raising awareness of the availability of cleaner power sources.



- Calling the utility's customer service line.

This approach will make a green power option available to the 1.5 million residential standard offer customers. It will not interfere with the competitive market because that market has not developed for small standard offer customers, even now -- four and one-half years after the market opened.<sup>8</sup>

The proposal will in fact help the development of the competitive market for several reasons. First, it will enable a number of competitive retail suppliers to reach scale in Massachusetts through serving the utility green option. Second, it will increase the name recognition of those suppliers. Third, it will make customers more accustomed to making choices regarding their electric service. Finally, because the offering ends with the standard offer period, customers that have chosen a green product and wish to continue with a green product after the standard offer will need to move to the competitive market.

An optional, green standard offer option would not violate the Electric Restructuring Act's mandate of a 15% discount for standard offer customers. The Act requires only that the distribution companies "shall provide a standard service transition rate" that results in the discount. M.G.L. c. 164, §1B(b). The Act does not prohibit the utilities from offering a second standard offer product at a different price. As long as a standard offer rate that results in a 15%

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<sup>8</sup> Some believe that, after the final standard offer price increase in 2004, the standard offer price will finally be above market, and that therefore a competitive retail market will develop then for small standard offer customers. If that occurs, the green standard offer option will still not interfere with the development of the competitive market. Since the price of the green standard offer option will be tied to the underlying standard offer price, competitive suppliers will be able to compete effectively against the green option. Indeed, the companies supplying the green standard offer may even offer lower-priced, competitive offerings to the green standard offer customers.

discount is available to all standard offer customers, the statutory requirement is met.

A higher price attributable to a green standard offer could also be treated as outside the 15% restriction. The Department reached a similar conclusion with regard to extraordinary fuel price increases, finding that “the Act’s requirement for a 15 percent rate reduction should be viewed as being exclusive of substantial changes in the cost of fuel.” Letter Order re Standard Offer Service Fuel Adjustments, DTE 00-66, 00-67, 00-70 (December 4, 2000).

Increased power costs associated with an optional green power product voluntarily chosen by customers could similarly be treated as outside the 15%.

### **Default Service during the Standard Offer**

The key elements of the offering for Default Service customers during the Standard Offer period are listed below.

- At roughly the same time as the introduction of the green standard offer option, each utility will send a ballot<sup>9</sup> to its residential default service customers listing green offers from competitive retail suppliers, and providing sufficient information about them to enable informed customer choices.<sup>10</sup>
  - Customers will be able to switch to any of those suppliers by filling out and returning the ballot, without further action on the customer’s part.
  - Unlike the standard offer green option described above, these will be competitive products (not utility offerings) and each customer selecting one of these products will be switched to their chosen competitive supplier.
- The retail suppliers supplying the utility’s green offering for standard offer customers will be required to offer a product for inclusion on the ballot. That

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<sup>9</sup> PG&E National Energy Group also suggested a ballot for default service customers in its initial comments. The MTC proposal herein differs in a number of respects; for example, we are not addressing the treatment of Default Service customers that do not choose a green supplier during the ballot campaign.

<sup>10</sup> Such a ballot could also be distributed at additional times, such as at the end of the Standard Offer period.

product will be similar to the green product for standard offer customers, but the pricing may differ.

- The Department could expand the ballot to non-green offers. If so, the ballot should clearly identify the environmental and other characteristics and benefits of the green products and should impose no disadvantage to them compared to other products on the list.

The green default service ballot will ensure that default service customers also receive a green power option, albeit a different one from that offered to standard offer customers. So as not to interfere with the development of the competitive retail market for these customers, the green products will be offered by competitive suppliers rather than the utility. (Unlike standard offer, there has been some competitive market activity for residential default service customers.)

In order to ensure that there is at least one green choice for default service customers, the competitive suppliers that are providing the green standard offer products will be required to include a green offer on the ballot for default service customers.

The standard offer and default service green options are designed to work together to provide a green choice to all customers still served by the distribution company. On its own, a green ballot for default service customers such as the one we have proposed might not work, because it might not enable suppliers to achieve the scale they need to enter the market.

### **Default Service after the Standard Offer**

The Department should also ensure that mechanisms are in place to facilitate green offers after the standard offer period.

However, the best mechanism for doing so will depend on the overall market structure at that time, and in particular on the default service reforms the Department adopts in this proceeding. For example, if the Department adopts reforms that will enable an active retail market to develop at the end of the standard offer, the best way to facilitate green offers may be simply to continue the ballot approach adopted for today's default service customers. Alternatively, if the Department does not adopt reforms that will facilitate the development of the retail market, it may be necessary to create a green option as part of default service, similar to the approach recommended above for standard offer customers.

Given that the correct approach for green options after the standard offer is dependent on the resolution of other issues, MTC is not recommending a specific approach today. Instead, we request that the Department do the following:

- a) Articulate that the provision of green offerings for customers is a critical component of the post standard offer period; and
- b) Require that a mechanism to facilitate such offerings be included in the default service structure for the post standard offer period.

#### **IV. Conclusion**

The MTC respectfully requests that the Department take the following actions with respect to each distribution company that serves as a retail supplier of standard offer or default service:<sup>11</sup>

##### **Actions Relating to the RPS**

1. Authorize distribution companies to incur the appropriate costs that are necessary to comply with the RPS in a manner designed to advance the legislative goal of stimulating the development of new renewable energy generation capacity to serve Massachusetts customers;
2. Provide as much regulatory assurance for the inclusion of RPS compliance costs in default service rates as for the inclusion of power supply costs in those rates;
3. Give the distribution companies the flexibility to use different procurement methods and enter into different contractual terms for the acquisition of RPS certificates than those specified for procurement of Default Service power supply, such as longer-term contract periods where needed to provide a financial basis for construction of new renewable generating capacity; and
4. Give the distribution companies the flexibility to purchase RPS certificates from different suppliers, if appropriate, or through

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<sup>11</sup> The MTC would be pleased to work with the distribution companies and other interested parties in developing RPS compliance procedures and proposals for green options for default service and standard offer customers.

different market channels than power supply (e.g. separate RFPs, certificate exchanges or brokers, etc.).

**Actions Relating to Green Power Offers**

1. Direct the distribution companies to file proposals for green options for standard offer and default service customers consistent with the MTC's proposals outlined above for implementation on or before March 1, 2003; and
2. Require that a mechanism to facilitate green offerings be included in the default service structure for the post standard offer period.

The MTC respectfully requests that the Department adopt the foregoing recommendations.

Respectfully submitted,

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